

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL MARR

Plaintiff,

vs.

CITY OF DETROIT, et al

Defendants.

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CASE NO.: 07-10931

HON. PAUL V. GADOLA

MAG. JUDGE STEVEN D. PEPE

**Supplement to Order Granting Defendant City of Detroit's Motion to Take Deposition**

On May 18, 2007, Plaintiff filed a response to Defendant's motion seeking leave to take his deposition. The response was not received by the undersigned until after the May 17, 2007, order granting Defendant's motion had been filed. The Court has reviewed Plaintiff's response and finds that Plaintiff's deposition should still be taken for the reasons stated below.

Plaintiff argues that his deposition should not be taken because

(a.) Defendant's counsel has failed to certify that the request is lawful pursuant to Fed. R. Civ. P. 26(g)(2). Yet, this Rule explains that a signature of a party or representative serves as such certification. *Id.*

(b.) Defendant has disregarded Plaintiff's requests for a Fed. R. Civ. P. 26(f) conference and submission of the initial disclosures required by 26(a). Yet, Rule 26(a)(1)(E)(iii) indicates that neither the initial disclosures nor a conference are required when the action at issue is brought by an unrepresented person in the custody the United States or a state.

(c.) Because Plaintiff has been unable to secure counsel, any testimony taken at his deposition would be inadmissible pursuant to Fed R. Civ. P. 32(a)(3). Yet, Rule 32 indicates that deposition testimony may be used at trial against any party that was present *or* represented. Further, inadmissibility at trial is not a proper objection to a parties' deposition.

For these reasons the May 17, 2007, order granting Defendant's request to depose Plaintiff remains valid.

SO ORDERED.

Dated: May 21, 2007

s/ Steven D. Pepe  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on May 21, 2007, I electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to the following: John A. Schapka, and I hereby certify that I have mailed by United States Postal Service this Order to Michael Marr #186617, Muskegon Correctional Facility, 2400 S. Sheridan Rd., Muskegon, MI 49442.

s/ James P. Peltier  
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